THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, the 2nd day of April,2007

W.P.No.7637 of 1997

Between:-

The Executive Engineer,
Dist. S.Cs. Ser.Coop.Society
Ltd., Krishna District at
Machilipatnam and another … Petitioners

and

The Presiding officer,
Labour Court, Guntur,
and another …Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to the Award dated 17-6-1996 passed in M.P.No.15 of 1991 on the file of Labour Court, Guntur and to quash the same as arbitrary and illegal.

Petitioners are the Management and the 2nd respondent is the workman.

Respondent No.2 seems to have filed an application under Section 33-C(2) of the Industrial Disputes Act,1947 (for short 'the Act') praying the Labour Court to compute the amount for which he is entitled to and direct the Management to pay a sum of Rs.17,520/-. It is the case of the workman that the petitioner-Management have been constructing School buildings, Hostel buildings, shopping complexes etc., for Scheduled Caste people and he was assisting the Junior Engineers at the time of construction. At the time of appointment, the Management promised to pay wages as per the Standard Schedule Rates fixed by the Government from time to time. But, the Management had been paying wages far below the rates fixed by the Government and thus, violated the Rules. In spite of repeated demands made by him, the Management simply promising him to pay, prolonged the matter on one pretext or other. Therefore, he was forced to file a petition under Section 33-C(2) of the Act. The Management filed a counter denying the allegations made by the workman. It is

asserted that the Management-society was constituted and registered under the A.P. Cooperative Societies Act,1964. The Engineering wing is intended for execution of construction of hostel buildings, shopping complexes etc., for the benefit of Scheduled Caste people in Krishna District. The extent and duration of the work was determined by the availability of funds. The corresponding percentage charges depend upon the work and availability of funds. After deducting the salaries of regular employees, NMRs will be engaged. Accordingly, the workman worked at Machilipatnam upto 20-12-1987 as NMR. There were no orders passed transferring the petitioner from Machilipatnam to Vijayawada. The workman was engaged as NMR depending upon the workload and funds and the workman is not entitled for any amounts as claimed by him.

Before the Labour Court, on his behalf, the workman examined himself as P.W.1 and marked Exs.P1 to P8. No oral or documentary evidence was adduced by the Management. After considering the rival contentions and perusing the evidence on record, the Labour Court came to the conclusion that even in the counter filed by the Management, they did not deny the fact of appointment of the workman as Technical Work Inspector in their organization for the period shown in the petition and actually, the workman was paid lesser salary than the Standard Schedule Rates fixed by the Government. That is the reason, why the workman filed the present petition claiming the difference of wages for which he is actually entitled to. The claim of the workman was supported by documentary evidence. There is no reason to hold that the workman is not entitled for the amount claimed in the petition. Thus, the petition was allowed directing the Management to pay an amount of Rs.24,478/-. Aggrieved by the same, the Management filed the present Writ Petition.

While admitting the Writ Petition on 17-4-1997, this Court granted interim stay on condition of the petitioner-Management depositing half of the wages granted under the Award passed by the Labour Court and the workman was permitted to withdraw the same without furnishing any security. The fact that the respondent-workman was engaged in the organization is not in dispute. The fact that the workman was also entitled for Standard Schedule Rates fixed by the Government from time to time is also not in dispute. Under those circumstances, I am of the opinion that the Labour Court has not committed any error calling for interference of this Court in awarding an amount of Rs.24,478/- being the difference of wages for the period from 4-8-1987 to 20-8-1992. The Writ Petition is devoid of any merit and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

02-4-2007

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